

Proposed British Sign Language (Scotland) Bill

A proposal for a Bill to promote the use of British Sign Language (BSL) by requiring the Scottish Ministers and relevant public authorities to prepare and publish BSL plans.

Consultation

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Member for Central Scotland Region

30th July 2012



Foreword

It is a great honour to bring forward my consultation document on the proposed British Sign Language (Scotland) Bill.

British Sign Language (BSL) is a language in its own right, having been officially recognised by the UK Government as being a full independent language on 18 March

2003¹, and is the first and preferred language of Scotland's Deaf and Deafblind population. Deaf people living in our hearing world face barriers in their everyday lives that are caused by a lack of understanding of their language, culture and history.

The proposed Bill aims to promote the use of BSL by placing a requirement on the Scottish Ministers and relevant public authorities to prepare and publish BSL plans. This proposed Bill will place a requirement on the Scottish Ministers to prepare a strategic plan and set out its plans in relation to BSL. The proposals outlined in this document would see a designated Scottish Minister for BSL being appointed, who will update the Scottish Parliament regularly on the action the Scottish Government and relevant public authorities are taking in relation to BSL. The proposed Bill would also place a duty on those public authorities to develop inclusive action plans with a view to increasing Deaf and BSL awareness for staff and the general population, the majority of whom have little understanding of the language.

In 2010, former MSP Cathie Craigie conducted a consultation on a proposed British Sign Language Bill. In view of the legislative obstacles to some of the strands of that proposal, I am taking a different approach.

I must stress however, that much of my proposal is based on the excellent work carried out by Cathie Craigie in the last session of Parliament. I have also received a great amount of support and guidance from the Scottish Parliament's Cross Party Group on Deafness, who have steadfastly supported this process over many years.

Mark Griffin MSP

¹ HMG Office for Disability Issues (<http://www.deafcouncil.org.uk/bsl3.htm>)

The consultation

This consultation is part of the process in taking forward my proposed Bill. The Bill will be introduced as a Member's Bill. This means that the Bill is not being put forward by the Scottish Government, as some are, but by me as an MSP.

This consultation is being launched in connection with a draft proposal which I have lodged as the first stage in the process of introducing a Member's Bill. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders and can be found on the Parliament's website at: **www.scottish.parliament.uk**.

The consultation period will run from **30 July 2012 to 31 October 2012**. Once the consultation period is over, I intend to lodge a final proposal for the Bill in the Scottish Parliament along with a summary of the consultation responses. These papers will be available on the Scottish Parliament website at the above link. I need to get cross party support from other MSPs – 18 in total and these must include half of the number of political parties on the Parliamentary Bureau (i.e. have cross party support).

At this stage there is not a Bill, only a draft proposal for the legislation.

The role of this consultation in the development of my proposed Bill is to provide a range of views on the subject matter of the Bill, highlighting potential benefits and problems with the proposals, identifying equalities issues, suggesting improvements, raising any financial implications which may not previously been obvious and, in general, to assist in ensuring that the resulting legislation is fit for purpose.

The consultation process for my Bill is being supported by the Scottish Parliament's Non-Government Bills Unit (NGBU) and will therefore comply with the Unit's good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

This consultation is available in BSL and can be found at: **www.markgriffinmsp.org.uk**.

Additional copies of the paper can be requested by contacting me at: **Mark.Griffin.msp@scottish.parliament.uk**. Enquiries about obtaining the consultation document in any language other than English or in other alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website: **www.scottish.parliament.uk** and respondents will be able to respond in BSL.

Background

The Need for Legislation

Many of Scotland's Deaf population use BSL. There is currently no legislation which makes express provision about BSL, although the language was officially recognised by the UK Government as a full, independent language in March 2003 and it was formally recognised as a language by the Scottish Government in March 2011. In addition, the United Nations Convention on the Rights of Persons with Disabilities makes specific reference to Deaf Communities and sign languages, including recognising and promoting the use of sign languages.²

The proposals set out in this consultation document will place a requirement on the Scottish Ministers to produce a strategic plan, detailing what the Scottish Ministers are doing and what they will do in the future to promote BSL nationally. The proposed Bill will also place a requirement on relevant public authorities in Scotland to develop detailed action plans on what they are doing regarding BSL. These plans will require to be submitted to Scottish Ministers.

About the Language

BSL is the first language of many Deaf people³ in Scotland. BSL is a visual-gestural language which uses space and movement grammatically. The hands, face and head are used to communicate. It has a different grammatical structure to English.

Across Scotland, BSL is the indigenous manual language in the same way that English is the indigenous spoken language. Deaf people who use BSL are part of a recognised cultural and linguistic minority. Unlike people who speak other minority languages, many Deaf sign language users cannot learn to speak English as they cannot hear the language.

The then Scottish Executive's February 2007 consultation document – *A Strategy For Scotland's Languages*, describes BSL as:

“a real, full and living language and is an important element of our rich cultural heritage. It has its own vocabulary, structure and grammar, which is different

² <http://www.un.org/disabilities/convention/conventionfull.shtml>

³ The word *deaf* is often capitalised as *Deaf* by people who have a strong deaf cultural identity. 'Small d' deaf people can often refer to people who have an acquired hearing loss, who view being deaf only in medical terms and who do not view themselves as part of the cultural Deaf community.

from English, and like spoken languages in Scotland, has its own regional variations and dialects”.

There are an estimated 5,000 or 6,000⁴ Deaf BSL users in Scotland. An estimated 850,000 people in Scotland suffer from some level of hearing loss⁵. Deafblind Scotland also estimates that up to 5,000 people in Scotland suffer from a dual sensory impairment.⁶ It is estimated that 120 children each year in Scotland are born with a hearing loss. Over 1,000 children and young people under the age of 19 have severe or profound hearing loss in Scotland.⁷ The impact of a child being born with a hearing loss can be great on parents, guardians, siblings and other family members, many of whom are hearing. It can be difficult for parents and other family members to become educated in BSL, with many having to pay for courses simply to communicate with their child. Furthermore, on a wider scale, it can be difficult for BSL users to communicate with the general population, as BSL/English sign language interpreters are in short supply. Scottish Association of Sign Language Interpreters (SASLI) figures show that Scotland’s entire Deaf population have to rely on 80 dedicated sign language interpreters.⁸ In Finland, a country with a similar population, and deaf population, to Scotland, there are 750 interpreters. There are too few interpreters for Scotland’s BSL users.

There is a lack of awareness and understanding of BSL among the hearing population. This lack of understanding of the language has meant that Deaf people do not have access to the same information and services as hearing people.

Scottish Government action

In 2000, the then Scottish Executive set up the BSL and Linguistic Access Working Group. The working group was made up of representatives from deaf organisations and Government officials. The purpose of the group was to develop a cohesive strategy for improving linguistic access for deaf people in Scotland, as well as raising awareness of deaf issues among policy makers, professionals, service providers, deaf people and the general population.

⁴ Hear Me Out Report, <http://www.actiononhearingloss.org.uk/about-us/scotland/policy-and-research/research.aspx>

⁵ Hearing Matters Scotland Report, <http://www.actiononhearingloss.org.uk/about-us/scotland/policy-and-research/research.aspx>

⁶ Deafblind Scotland Statistics

⁷ National Deaf Children’s Society, 2012

⁸ SASLI Figures, 2012

A report was published by the Scottish Government in February 2009 from the Working Group - Scoping Study: Linguistic Access to Education for Deaf Pupils and Students in Scotland. This scoping study looked at all aspects of how Deaf pupils and students get on within the education system in Scotland. One of the aspects that was looked at was “the risk of isolation in mainstream situations”.

“In many cases a deaf child may be the only deaf child in a class - or in a school. There were examples of schools making good efforts to include individual deaf pupils - particularly at primary stage (for example assemblies on topics related to deafness; pupils and staff undertaking BSL qualifications).”⁹

In August 2009, the Working Group published a report called: *The Long and Winding Road - A Roadmap to British Sign Language & Linguistic Access in Scotland*.¹⁰ While it is acknowledged that

“the roadmap cannot hope to address all aspects of access for deaf people living in Scotland ... it does outline many of the major issues and points to some of the ways towards improvement, particularly in public policy.”

The Roadmap also states:

“The working group has a robust vision of what needs to be in place to improve linguistic access for Deaf and Deafblind people and it maintains a determined focus of deploying resources towards long term aims. It envisages a world where deaf people would be automatically afforded the same life chances as their fellow citizens. In such a world:

- **families with deaf babies would be supported to meet the linguistic needs of their child at the appropriate age;**
- **deaf pupils would have the same school attainments as their peers;**
- **BSL would be offered as an educational tool for deaf pupils who prefer it;**
- **pupils could study BSL and Deaf culture as a curriculum subject, from primary school through to university;**
- **all public services would be deaf and deafblind aware;**
- **deaf and Deafblind people would be provided with timely information;**

⁹ <http://www.scotland.gov.uk/Publications/2009/02/11155449/11>

¹⁰ <http://www.scotland.gov.uk/Publications/2009/07/01102537/0>

- **information would always be provided in a range of accessible formats;**
- **the implications of deafness would be understood and valued by society.”**

In March 2011, the Scottish Government made a formal statement recognising BSL. Then Public Health Minister Shona Robison said:

“British Sign Language is a vibrant language which makes a vital difference to the daily lives of many deaf people in Scotland.

“It is important that we do all we can to support the use of the language ...”¹¹

This proposed Bill gives the Scottish Government an opportunity to act on this commitment.

Party Political Commitments

In 2011, the SNP election manifesto outlined a commitment to improve access to linguistic support for parents with deaf children:

“We will take forward plans to support the provision of British Sign Language lessons for parents of new born Deaf children. We believe this can make a difference to the lives of young deaf Scots and their parents.”¹²

This is a welcome development and this proposed Bill could certainly assist in allowing progress towards these goals to be measured.

The Scottish Labour Party manifesto stated the following:

“Scottish Labour recognises that there is a shortage of BSL interpreters in Scotland. We have an ambition to increase support for those learning and using BSL.”¹³

It is important that the shortage of sign language interpreters is addressed and more must be done to increase the number of interpreters across Scotland.

¹¹ SCOD News - http://www.scod.org.uk/news.php?action=view&news_id=159

¹² <http://manifesto.votesnp.com/wellbeing>

¹³ <http://www.scottishlabour.org.uk/uploads/84613091-e7ae-5ce4-7dff-39f1789cf681.pdf>

Action Taken in Other Countries

There are a number of countries that have taken important steps to promote sign language and increase access to information for sign language users. One example is New Zealand. New Zealand is a country that has a similar population to Scotland. The New Zealand Sign Language (NZSL) Bill had its first reading in the Parliament in June 2004, and in 2006 it was passed into law. The Act recognises the language and culture of the Deaf community and declares NZSL to be an official language of New Zealand.

The Act gives certain Deaf people a right to use New Zealand Sign Language in legal proceedings. It sets out principles and guidelines to assist government departments in consulting the Deaf community on matters relating to New Zealand Sign Language and its use by government agencies.

National sign languages have been recognised at a legal, Parliamentary or constitutional level in a number of other countries, including Austria, the Czech Republic, Finland, Portugal, the Slovak Republic, and Spain.

In promoting awareness of BSL, we will be contributing to the long term goal of securing the future of the language.

The Proposed Bill

The proposed Bill seeks to encourage the use of BSL in Scottish public life and raise awareness of the language among with the hearing population. The proposed Bill would require:

- The Scottish Government would create a designated, or lead, Minister for BSL.
- The Scottish Ministers would develop a Scottish Government BSL strategic plan detailing what action the Government is taking and plans to take to promote BSL within areas of its responsibility. The Ministers would also be expected to provide effective direction and guidance for those public authorities tasked with providing BSL action plans.
- Relevant public authorities would produce action plans on the measures they are taking regarding BSL and raise awareness of the language and Deaf culture among staff and the public in their local areas. The action plans would be published by these authorities and submitted to the Scottish Ministers.
- The Scottish Ministers would report to the Scottish Parliament at least twice in a Parliamentary session on the content of their strategic plan and on the performance of the public authorities in terms of their BSL action plans.
- In practice, during the first half of a parliamentary session, Scottish Ministers would prepare and publish their strategic plan and guidance, which would be laid before the Scottish Parliament. In the second half of the Parliamentary session, the Scottish Ministers would report to the Scottish Parliament on how they were performing in relation to the strategic plan; the report would include details of the relevant authorities' plans and performance.

The Gaelic Model

The proposed Bill is based, in many respects, on the model of the Gaelic Language (Scotland) Act 2005, which also includes a strategy for promoting, and facilitating the promotion of the use and understanding of a language. While in the case of Gaelic a Board prepares the national plan, in the case of BSL this would be the responsibility of the Scottish Ministers. It is hoped that an advisory board would be established, made up of BSL and hearing people, with an understanding of the language, to advise and assist the designated Scottish Minister.

The Role of Scottish Ministers

Under the proposals, the Scottish Ministers would designate a lead Minister for BSL. The Scottish Ministers would be required to produce a strategic plan for BSL which would be expected to set out what the Scottish Government is doing, and plans to do, to promote BSL in terms of raising awareness of the language among the hearing population and regarding services and information for BSL users. The Scottish Ministers would be required to report to the Scottish Parliament on their plan at least twice during a Parliamentary session.

The Scottish Ministers would also be expected to prepare and publish guidance for the relevant public authorities on what should be contained within their own plans. Once the relevant public authorities have published their plans and submitted them to the Scottish Government, the Scottish Ministers would be expected to report to the Scottish Parliament on these plans when reporting on the Scottish Ministers' plan.

Public Authority Plans

Relevant public authorities would be required to develop, produce and maintain action plans and submit them to the Scottish Ministers, who in turn would report to the Scottish Parliament.

A duty would be placed on these authorities to prepare and publish BSL plans in relation to the services they provide. This might include:

- identifying ways in which they already provide information and services or communicate with Deaf people using BSL,
- what intentions they have to increase or improve such services, information and communication,
- how they take the needs of BSL users into account in preparing and delivering policies and services,
- what plans they have to improve how they do this,
- what consultation they have had (or plan to have) with BSL users and deaf organisations about these issues,
- what guidance and training these public authorities are giving to staff who may interact with, work with and support BSL users.

By requiring these public authorities to focus on the needs of Deaf people and the way in which they communicate with them, these authorities will be encouraged to improve their service provision and to become more alert to Deaf people's needs.

It is hoped that by regularly requesting public authorities to provide plans for increasing their awareness of BSL, further progress will be achieved. In addition, knowing that their efforts will be assessed in the context of other authorities in reports prepared by Ministers, all authorities involved should be encouraged to adopt best practice.

It would be for Ministers to inform the Parliament if the public authorities fail to provide reports on the action plans.

Promotion of BSL

Communication for deaf children¹⁴

The Scottish National Party's 2011 Election manifesto includes a commitment to support the provision of BSL classes for parents of deaf children.

As stated previously, it is estimated that 120 children each year in Scotland are born with a hearing loss according to the National Deaf Children's Society (NDCS). NDCS also estimate that over 1000 children and young people below the age of 19 have a severe or profound hearing loss.¹⁵

NDCS estimate that 90% of deaf children are born to hearing parents.¹⁶ It is morally wrong that the parents and other family members of deaf children have to pay to learn BSL simply to be able to communicate with the child.

This proposed Bill, by promoting the use of BSL, will assist in highlighting the need to increase the rights of parents, siblings, grandparents and others in a guardian or parental role to access free BSL classes, to meet the communication needs of children and wider families. The Scottish Ministers should be encouraged to provide guidelines and support for public authorities in Scotland and assist in facilitating the availability of free BSL classes for the families of deaf children. Although this Bill will not directly require education authorities to provide free BSL classes for those family members stated above, there will be an expectation that the Scottish Government and public authorities will report specifically on the action they are taking to promote free BSL classes for family members to meet the needs of deaf children.

¹⁴ In this section the small 'd' deaf is being utilised, using NDCS definition, to cover all forms of hearing loss.

¹⁵ NDCS 2012 Figures

¹⁶ http://www.ndcs.org.uk/about_us/ndcs/index.html

Communication for Deafened people

People in Scotland who become Deafened (have an Acquired Profound Hearing Loss) after they have learned to use a spoken language and who want to learn BSL as part of their rehabilitation should have access to free BSL classes provided by the relevant public authority. Again, while the Bill will not directly require the relevant public authority to provide such classes, they would be expected to report in their action plans on what classes are available in their area, and what the public authority's role has been in supporting those classes.

The needs of deafblind people

There is no universal definition of deafblindness. However one widely used definition is that:

"Persons are regarded as deafblind if they have a severe degree of combined visual and auditory impairment resulting in problems of communication, information and mobility."¹⁷

Deafblind Scotland estimates 5,000 people in Scotland have a dual sensory impairment. Relatively few people are totally deaf and totally blind - many have some level of sight or hearing remaining. Most deafblind people are over the age of 60 and have become dual sensory impaired as part of the ageing process. 11% of deafblind people use BSL as their first language.¹⁸

Special consideration should be given to deafblind people to ensure that deafblind manual interpreters, hands-on signing communicators and guide/communicators are provided, to ensure that deafblind BSL users are not overlooked.

The Scottish Ministers and relevant public authorities should include information about the provisions for deafblind BSL users in their plans.

¹⁷ Breaking Through Report (1988)

¹⁸ Deafblind Scotland Figures - <http://www.deafblindscotland.org.uk/deafblindness/facts/>

Questions

- Question 1) Do you support the general aim of the proposed BSL Bill? Please indicate “yes/no/undecided” and explain the reasons for your response.
- Question 2) Do you believe legislation is required? If not, what other non-legislative means can be followed?
- Question 3) What, if any, might be the main benefits of the proposed Bill? Do you see any challenges? Please list these.
- Question 4) Do you agree with the case for taking specific action to promote BSL (as opposed to other minority languages)?
- Question 5) To what extent might this proposed Bill improve awareness of the case for access to free BSL classes for deaf children and their families? What other non-legislative measures might be required?
- Question 6) Should there be a designated Minister to take the lead on BSL in the Scottish Government or should this be the responsibility of all Scottish Ministers? What benefits or challenges will a designated Minister have for BSL and for Deaf people and what in your opinion should the role of the designated Minister entail?
- Question 7) Do you believe an Advisory Board of BSL users should be established, to advise the designated minister or all Scottish Ministers? Please explain the reasons for your answer.
- Question 8) Relevant public authorities will have to develop BSL action plans. Should there be a detailed list of such authorities (for example, the Scottish Government, the Scottish Parliament, health boards, local authorities etc) and if so, which ones should be included and why? Which ones should not? – (See the list of all public bodies on the Scottish Government website:
<http://www.scotland.gov.uk/Topics/Government/public-bodies/about/Bodies>)
- Question 9) What financial implications do you envisage the proposed Bill would have for you or your organisation? What (if any) other significant financial implications are likely to arise?
- Question 10) Do you believe if this proposed Bill becomes law, it will have a positive or negative impact on equality and diversity within your organisation? If you believe it will have a negative impact, how can this be minimised or avoided?

Question 11) Do you have any other comments on or suggestions relevant to the proposal?

How do you respond to this consultation?

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Responses should be submitted by 31 October 2012 and sent to:

Mark Griffin MSP

Room M1:20

Scottish Parliament

Edinburgh

EH99 1SP

Tel: 01236 423 555

E-mail: Mark.Griffin.msp@scottish.parliament.uk

You can send in your response in BSL.

Please make it clear whether you are responding as an individual or on behalf of an organisation.

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that the normal practice is to make responses public and a hard copy will appear in the Scottish Parliament's Information Centre (SPICe).

Therefore, if you wish your response, or any part of it, to be treated as **anonymous**, please state this clearly along with the reasons for this. If I accept the reasons, I will publish it as "anonymous response". If I do not accept the reasons, I will let you know and give you the option of withdrawing it or submitting it on the normal attributable basis. If your response is accepted as anonymous, it is your responsibility to ensure that the content of does not allow you to be identified.

If you wish your response, or any part of it, to be treated as **confidential**, please state this clearly and give reasons. If I accept the reasons, I will not publish it (or publish only the non-confidential parts). However, I am obliged to provide a (full) copy of the response to the Parliament's Non-Government Bills Unit (NGBU) when lodging my final proposal. As the Parliament is subject to the Freedom of Information (Scotland) Act (FOISA), it is possible that requests may be made to see your response (or the confidential parts of it) and the Parliament may be legally obliged to release that information. Further details of the FOISA are provided below.

NGBU may be responsible for summarising and analysing the results of this consultation and will normally aim to reflect the general content of any confidential response in that summary, but in such a way as to preserve the confidentiality involved. You should also note that members of the committee which considers the proposal and subsequent Bill may have access to the full text of your response even if it has not been published in full.

There are a few situations where not all responses will be published. This may be for practical reasons: for example, where the number of submissions we receive does not make this possible or where a large number of submissions are in very similar terms. In the latter case, only a list of the names of people and one response who have submitted such responses would normally be published.

In addition, there may be a few situations where I may not choose to publish your evidence or have to edit it before publication for legal reasons. This will include any submission which contains defamatory statements or material. If I think your response potentially contains such material, usually, this will be returned to you with an invitation to substantiate the comments or remove them. In these circumstances, if the response is returned to me and it still contains material which I consider may be defamatory, it may not be considered and it may have to be destroyed.

Data Protection Act 1998

As an MSP, I must comply with the requirements of the Data Protection Act 1998 which places certain obligations on me when I process personal data. Normally I will publish all the information you provide (including your name) in line with Parliamentary practice unless you indicate otherwise. However, I will not publish your signature or personal contact information (including, for example, your home telephone number and home address details, or any other information which could identify you and be defined as personal data).

I may also edit any information which I think could identify any third parties unless that person has provided consent for me to publish it. If you specifically wish me to publish information involving third parties you must obtain their consent first and this should be included in writing with your submission.

If you consider that your response may raise any other issues concerning the Data Protection Act and wish to discuss this further, please contact me before you submit your response.

Further information about the Data Protection Act can be found at: www.ico.gov.uk

Freedom of Information (Scotland) Act 2002

As indicated above, once your response is received by NGBU or is placed in the Scottish Parliament Information Centre (SPICe) or is made available to committees, it is considered to be held by the Parliament and is subject to the requirements of the Freedom of Information (Scotland) Act 2002 (FOI(S)A). So if the information you send me is requested by third parties the Parliament is obliged to consider the request and provide the information unless the information falls within one of the exemptions set out in the Act, even if I have agreed to treat all or part of the information in confidence and to publish it anonymously. I cannot therefore guarantee that any other information you send me will not be made public should it be requested under FOI.

Further information about Freedom of Information can be found at www.itspublicknowledge.info